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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,072	03/07/2007	Hiroaki Tooyama	2261.0050000	5611
26111	7590	01/15/2010	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			SULLIVAN, MATTHEW J	
ART UNIT	PAPER NUMBER			
	3677			
MAIL DATE	DELIVERY MODE			
01/15/2010	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/597,072	TOOYAMA, HIROAKI	
	<b>Examiner</b>	<b>Art Unit</b>	
	MATTHEW SULLIVAN	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 November 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,5,6 and 11-13 is/are pending in the application.  
 4a) Of the above claim(s) 11-13 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,5 and 6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3 and 5-9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Election/Restrictions***

Newly submitted claims 11-13 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the limitations of the newly submitted claims are, at the very least, drawn to species (see figs. 9-12) separate from the original apparatus.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 11-13 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 1-3 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doornbos, U.S. Patent 6,848,759 (2/1/05 – filed 1/24/03) in view of Coleman, U.S. Patent 5,448,797 (9/12/95).**

Doornbos teaches a buffer (fig. 1) comprising an engagement member (50), a case body (12) relatively movable with respect to the engagement member (see figs. 2-3), a buffering member (16, 24, 26, 44) and an elastic means (32) for moving the buffering member relative to the case body. The buffering member is rotated through abutment with the engagement member (see figs. 3-2), has an engagement stepped portion (see 40, 48) and moves along with movement of the engagement member or the case body while retaining the pressing state caused by the engagement stepped portion so as to buffer relative movement of the engagement member and case body (see detailed description of the invention). Doornbos does not teach a slider provided in the case body so as to be slidable in a longitudinal direction of the case body, but not rotatable relative to the case body, Doornbos does not teach the buffering member rotatably attached to the slider or a buffering member formed to be independent of the slider. Coleman does teach a slider (36-45) provided in a case body (22) and slidable in a longitudinal direction but not rotatable relative to the slider, an elastic means for moving the slider relative to the case body (see 32, 33). Coleman also teaches a buffering member (41-45) rotatably attached to the slider (see 41, figs. 3-5), but also formed to be independent of the slider. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide Doornbos with a slider such as that taught by Coleman such that it would be mounted in the case body of Doornbos with the

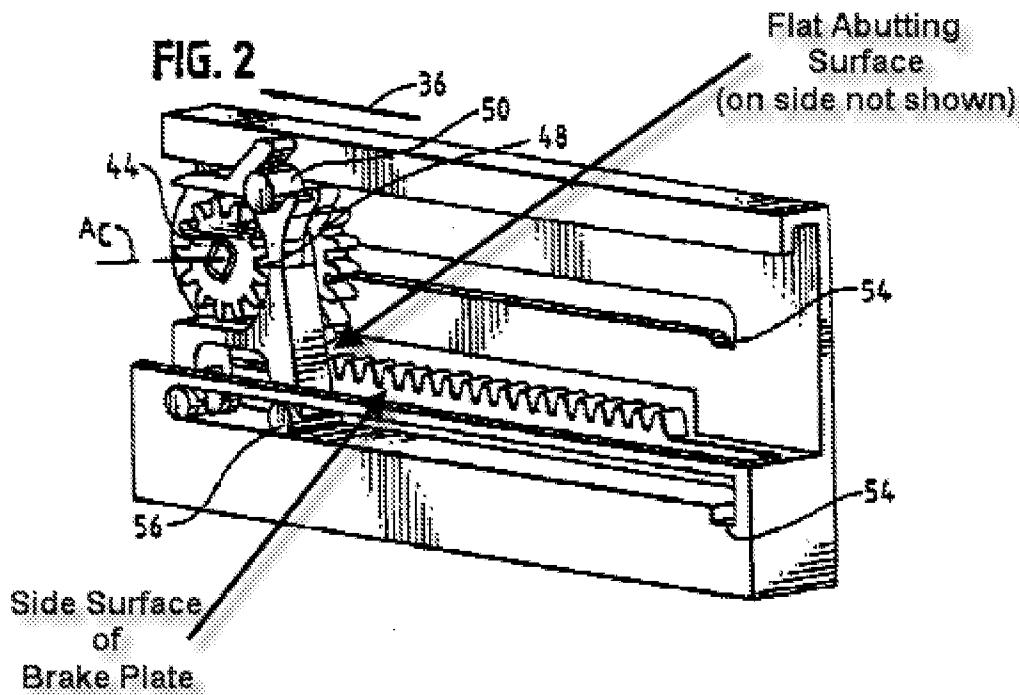
buffering member of Doornbos rotatably attached to the slider, but the slider not being rotatable relative to the case body because such an arrangement would allow the slider to provide a more complete encasement of the buffer mechanism so as to protect the mechanism from the environment and protect user's hands from the mechanism, [claim 1].

Regarding **Claim 2**, Doornbos teaches the engagement stepped portion (40, 48) rotated through abutment with the engagement member (see figs. 2-3) and presses the case body (12) via a pressing member (20, 56).

Regarding **Claim 3**, Doornbos teaches the buffering member (16, 24, 44) is rotated through abutment with the engagement member (see figs. 2-3) and presses a brake plate fixed to the case body (see element 14).

Regarding **Claim 5**, Doornbos teaches a flat abutting surface formed on the slider (see below).

Examiner's note\*: the claim language "to be brought into sliding contact with one side surface of the brake plate" is considered intended use language failing to limit the structure of the claimed invention. The prior art must only be capable of performing said functional recitations to be applicable and in the instant case the prior art of Doornbos is indeed capable. Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).



Regarding **Claim 6**, the combination of Doornbos-Coleman would teach the buffering member of Doornbos (16, 24, 26, 44) located on one end portion of the slider. Doornbos teaches a rotary damper (26) with a pinion gear (24) fixed to the rotation axis of the damper and a rack (14) fixed to the case body wherein the pinion gear and the rack are meshed with each other. At the time of the invention it would have been obvious to provide an additional rotary damper and pinion gear affixed to the other end of the slider with an additional pinion gear on the axis of rotation of the rotary damper and that pinion gear meshing with the rack because certain application (such as a vertically opening/closing door) would have different closing moments (affected by gravity) at different extreme open or closed positions and additional damping or buffering may be desired in these ranges. Furthermore, a duplication of parts is

generally considered within the ordinary skill of one in the art barring any unforeseen result, *In re Harza*.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW SULLIVAN whose telephone number is (571)270-5218. The examiner can normally be reached on Mon-Thurs, 8:00 am - 6:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/  
Supervisory Patent Examiner, Art Unit 3677

/MATTHEW SULLIVAN/  
Examiner, Art Unit 3677